

IN THE SENATE OF THE UNITED STATES.

MAY 20, 1858.—Ordered to be printed.

Mr. THOMSON, of New Jersey, made the following

REPORT.

[To accompany Bill S. 230.]

The Committee on Pensions, to whom was referred the petition of Daniel Hay, of Illinois, for compensation for services as pension agent, and also a bill (S. 230) for the relief of the legal representatives of David Hay, deceased, beg leave to report:

That they have had the same under consideration, and find that the said Daniel Hay was appointed pension agent for the State of Illinois in the year 1831, and that from the time of his appointment up to the 20th of April, 1836, in accordance with the existing law at that time, he was allowed two per cent. on the amount of his disbursements, as a compensation for his services.

The act of 20th April, 1836, provided (*vide Statutes at Large*, vol. 5, page 16,) "that all such payments shall be hereafter made at such times and places, by such persons or corporations, and under such regulations as the Secretary of War may direct; but no compensation or allowance shall be made to such persons or corporations for making such payments *without authority of law*."

Soon after the passage of this act, many of the pension agents tendered their resignations, (and among them, Mr. Hay himself,) which, however, they were induced to withdraw, with the assurance that Congress would speedily compensate them for their services. Numerous efforts were made from time to time to fix the compensation of these officers, but nothing was done in the matter until the 20th of February, 1847, when an act was passed allowing pension agents a commission of two per cent. upon their disbursements, provided the same should not exceed in any case the sum of one thousand dollars per annum.

But this law had no retrospective effect, and, in consequence of this, Mr. Hay received none of its benefits, as he resigned the office in 1841 or 1842. He sets forth in his petition, which is dated January 29, 1842, that "since April, 1836, he had disbursed about \$130,000 in small sums, averaging about \$45 each, without any compensation whatever, even for stationery, books, or other contingent expenses." It is not to be supposed that he would have continued to hold the office under these circumstances, unless he had been induced to do so

by the promise and expectation of adequate compensation. This reasonable expectation was encouraged by the interest manifested in it by almost every government officer under whose official notice the subject passed during the period of eleven years, and until the law of 1847 was finally passed. The Secretary of War and Commissioner of Pensions, in their annual reports to the 1st session of the 26th Congress, and in their reports before and since, have called the attention of Congress to the necessity and justice of making provision for the payment of these agents.

In the annual report of the Secretary of War, November 28, 1838, he says:

"I respectfully recommend that the *early attention* of Congress should be called to the compensation to be granted to the pension agents for discharging the duties of their offices. The performance of these duties is attended with much labor and expense and very considerable responsibility, and it is *unjust* to exact it from any one without remuneration. The agents have been *induced* to continue to pay pensions *in the expectation* that an act would be passed for their relief."—(See Ex. Doc., 25th Congress, 3d session, vol. 1, page 109.)

In the annual report of the Commissioner of Pensions, November 16, 1839, he says:

"The great inconvenience resulting from the employment of individuals, at considerable expense and responsibility, without any compensation, to disburse and account for large amounts of public money, in small sums, renders it necessary to present it *again* to the consideration of Congress. Having no allowance by law, and *furnished with funds limited by the estimated disbursements from month to month*, it is believed that the *hope of future remuneration by Congress has restrained most of them from resigning*."—(See Ex. Doc., 26th Congress, 1st session, vol. 1, page 320.)

So important did this subject appear, that Mr. Polk, in his annual message to the 29th Congress, 2d session, December 8, 1846, said:

"Embarrassment is likely to arise for want of legal provision authorizing compensation to be made to the agents employed in the several States and Territories to pay the revolutionary and other pensioners the amounts allowed them by law. Your attention is invited to the recommendations of the Secretary of War on this subject. *These agents incur heavy responsibilities and perform important duties, and no reason exists why they should not be placed on the same footing, as to compensation, with other disbursing officers*."—(See Ex. Doc. No. 4, 2d session 29th Congress.)

Thus encouraged in the reasonable expectation that a law would be passed granting him a compensation at least as liberal as that which he had received prior to the passage of the act of 1836, Mr. Hay retained out of the public moneys, on going out of office, an amount equal to two per cent. upon the amount of his disbursements. This amount was suffered to remain in his hands some twelve or fourteen years, when suit was brought against the securities of Mr. Hay, and they were called upon to refund the amount thus retained, and his legal representatives, on the 30th of April, 1856, paid the same into the treasury of the United States. They now ask that this amount,

together with interest upon the same from the time of such payment, be refunded to them.

A case precisely similar to this was brought before the last Congress. A suit having been brought against the sureties of Robert King, deceased, on his official bond, as pension agent at Knoxville, Tennessee, a bill was passed and approved August 18, 1856, directing the district attorney to dismiss the suit, and providing "that the accounting officer of the treasury shall first adjust the accounts of Robert King, as pension agent, allowing to the defendants for him two per cent. on the moneys paid out by him for all the time he acted as such agent, and for which he was never allowed," &c.—(See private acts of 1st session 34th Congress, page 27.)

The committee being fully impressed with the justice of the claim in the case under consideration, herewith report back Senate bill No. 230, without amendment, and recommend its passage, and ask to be discharged from the further consideration of the petition.

